

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.17014 Legislative findings.

Sec. 17014. The legislature recognizes that under federal constitutional law, a state is permitted to enact persuasive measures that favor childbirth over abortion, even if those measures do not further a health interest. Sections 17015 and 17515 are nevertheless designed to provide objective, truthful information, and are not intended to be persuasive. The legislature finds that the enactment of sections 17015 and 17515 is essential for all of the following reasons:

(a) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice regarding abortion.

(b) The decision to obtain an abortion is an important and often stressful one, and it is in the state's interest that the decision be made with full knowledge of its nature and consequences.

(c) Enactment of sections 17015 and 17515 is necessary to ensure that, before an abortion, a woman is provided information regarding her available alternatives, and to ensure that a woman gives her voluntary and informed consent to an abortion.

(d) The receipt of accurate information about abortion and its alternatives is essential to the physical and psychological well-being of a woman considering an abortion.

(e) Because many abortions in this state are performed in clinics devoted solely to providing abortions, women who seek abortions at these clinics normally do not have a prior patient-physician relationship with the physician performing the abortion nor do these women continue a patient-physician relationship with the physician after the abortion. In many instances, the woman's only actual contact with the physician performing the abortion occurs simultaneously with the abortion procedure, with little opportunity to receive counsel concerning her decision. Consequently, certain safeguards are necessary to protect a woman's opportunity to select the option best suited to her particular situation.

(f) This state has an interest in protecting women and, subject to United States constitutional limitations and supreme court decisions, this state has an interest in protecting the fetus.

(g) Providing a woman with factual, medical, and biological information about the fetus she is carrying is essential to safeguard the state's interests described in subdivision (f). The dissemination of the information set forth in sections 17015 and 17515 is necessary due to the irreversible nature of the act of abortion and the often stressful circumstances under which the abortion decision is made.

(h) Because abortion services are marketed like many other commercial enterprises, and nearly all abortion providers advertise some free services, including pregnancy tests and counseling, the legislature finds that consumer protection should be extended to women contemplating an abortion decision by delaying any financial transactions until after a 24-hour waiting period. Furthermore, since the legislature and abortion providers have determined that a woman's right to give informed consent to an abortion can be protected by means other than the patient having to travel to the abortion facility during the 24-hour waiting period, the legislature finds that abortion providers do not have a legitimate claim of necessity in obtaining payments during the 24-hour waiting period.

(i) The safeguards that will best protect a woman seeking advice concerning abortion include the following:

(i) Private, individual counseling, including dissemination of certain information, as the woman's individual circumstances dictate, that affect her decision of whether to choose an abortion.

(ii) A 24-hour waiting period between a woman's receipt of that information provided to assist her in making an informed decision, and the actual performance of an abortion, if she elects to undergo an abortion. A 24-hour waiting period affords a woman, in light of the information provided by the physician or a qualified person assisting the physician, an opportunity to reflect on her decision and to seek counsel of family and friends in making her decision.

(j) The safeguards identified in subdivision (i) advance a woman's interests in the exercise of her discretion to choose or not to choose an abortion, and are justified by the objectives and interests of this state to protect the health of a pregnant woman and, subject to United States constitutional limitations and supreme court decisions, to protect the fetus.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994;—Am. 2002, Act 685, Eff. Mar. 31, 2003.

Popular name: Act 368

Popular name: Informed Consent